

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC

EX PARTE OR LATE FILED

February 8, 2000

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Telecommunications Relay Services
And Speech-to-Speech Services
For Individuals with
Hearing and Speech Disabilities

CC Docket No. 98-67

EXPARTE COMMENTS
OF THE
Maryland Department of Budget & Management
Virginia Department for the Deaf and Hard of Hearing

We respectfully request that the FCC ensure enforcement of the rules and regulations that require all service providers to be accessible via TRS whether they provide interexchange, intraLATA toll service or local exchange service. Although we understand that the FCC defers authority to the state on enforcement issues, we would like to suggest that the enforcement of this requirement should be under the jurisdiction of the FCC.

1. The Public Notice¹ issued by the FCC regarding Carrier Access released on September 14, 1999 has not been heeded by the carriers as a requirement with which they must comply. In a letter to the Maryland PSC, Qwest stated that they interpreted compliance as a voluntary matter.²
 - a) It was necessary for the Maryland PSC to issue an order of compliance in the above matter. Maryland is in the process of preparing a letter to be sent to all carriers under

¹ Public Notice attached

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their jurisdiction to ensure compliance with this ruling.³ With the current enforcement policy, each state is required to follow the same steps to ensure that each company is compliant with their TRS. Letters would have to be sent to each company over which the PSC/PUC has jurisdiction. Unfortunately, many states do not have the time and manpower required by each state Public Service/Utility Commission to pursue each individual IXC, LEC, CLEC, reseller, and dial-around. This extensive undertaking would be totally out of the range of possibility for many states Utility Commissions which are already understaffed in both TRS staff positions and expertise.

b) In addition, not all providers of services are under the jurisdiction of a state entity, consequently, there would be no way to ensure compliance on a state level.

2. With the exception of Washington, DC, access to state TRS is via an 800 number. As 800 numbers are interstate numbers, any TRS users can use their own home state TRS even when in another state, we feel that these interstate numbers put TRS enforcement firmly in the realm of the FCC.

Possible solutions:

If, instead of a company by company enforcement proceeding conducted by each state, the FCC issued an enforcement order nationwide, the responsibility would be on the carrier to comply. If this were the case, it would be easier for carriers to set up access with all TRS providers for states in which they do business. If for some reason they were unable to provide service, they would be responsible to “show cause” as to why they can not comply.

² Attached letter from Maryland Public Service Commission

³ Sample letter to carriers from MD PSC

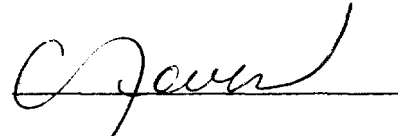
A clearinghouse would be useful to control and oversee the issues involved in managing national compliance.⁴

Without the direct involvement of the FCC, most states will not pursue carrier access and carriers will not voluntarily provide access to their services via TRS.⁵

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Gilbert Becker", written over a horizontal line.

Gilbert Becker, Director
Telecommunications Access of Maryland
Maryland Relay

A handwritten signature in dark ink, appearing to read "Clayton Bowen", written over a horizontal line.

Clayton Bowen
Business Manager
Virginia Relay

⁴ Comment from Mark Seeger of Sprint TRS

⁵ Exparte comments of the Department of Budget and Management November 19, 1999, Maryland Public Service Commission Exparte comments, and Letter from Sprint to the FCC – February 19, 1999

Attachment #1

DA 99-1871

Released: September 14, 1999

**COMMON CARRIER BUREAU REMINDS ALL COMMON CARRIERS OF THEIR
OBLIGATION TO PROVIDE ACCESS TO THEIR TELECOMMUNICATIONS
SERVICES VIA TELECOMMUNICATIONS RELAY SERVICES (TRS)**

By this Public Notice, the Common Carrier Bureau reminds all common carriers of their obligation to provide access to their services via telecommunications relay service (TRS) throughout the area(s) in which they offer telecommunications services. TRS allows individuals with hearing or speech disabilities to communicate by telephone with individuals who may or may not have such disabilities. TRS facilities are equipped with special equipment and are staffed by communications assistants (CAs) who relay the conversations between the caller and the called party by speaking or typing text.

Title IV of the American with Disabilities Act of 1990 (ADA) requires the Commission to ensure that TRS is available, to the extent possible and in the most efficient manner, to individuals with hearing or speech disabilities in the United States. Pub. L. No. 101-336, 401, 104 Stat. 327,366-69 (codified as Section 225 of the Communications Act of 1934, as amended, 47 U.S.C. 225); see 47 U.S.C. 225(b). Carriers are required to provide TRS, in compliance with regulations prescribed by the Commission, throughout the areas in which they offer service. 47 U.S.C. 225(c).

To satisfy the ADA's mandate, the Commission adopted comprehensive rules delineating the TRS obligations of carriers, including a requirement that interexchange carriers (IXCs) provide equal access for TRS users. 47 C.F.R. 64.604(b)(3). Under this requirement, *TRS users shall have access to their chosen interexchange carrier, and to all other operator services, to the same extent that such access is provided to voice users.* Id.

Pursuant to the implementation schedule mandated by the ADA, nationwide TRS has been generally available throughout the United States since 1993. 47 U.S.C. 225(c). The primary purpose of the ADA and the Commission's TRS implementing rules is to provide individuals with hearing or speech disabilities telecommunications services that are functionally equivalent to those provided to individuals without hearing or speech disabilities. This goal is achieved, in part, through nationwide TRS. Various competitive telecommunications services are continuing to enter the telecommunications market. To realize the full benefits of such competition, TRS users must have equal access to the public switched network to the same extent as non-TRS users.

It has come to the Commission's attention, however, that TRS users do not always have the same access to their carrier of choice or special pricing plans as non-TRS users. The Commission has been informed that some TRS users have been unable to place TRS calls through their chosen carrier or have been unable to make *dial-around* calls using a carrier-specific access code. If TRS users are not able to use their carrier of choice and are forced to select an alternative provider, they may pay rates that are

higher than those charged by their preferred carrier, or may not have access to particular services. This result is inconsistent with the ADA and the Commission's rules. See 47 U.S.C. 225(c); 47 C.F.R. 64.603, 64.604(b)(3). Carriers should take appropriate measures to ensure that callers in the areas that they serve have access to their services through TRS.

Because the Commission's rules require each common carrier to allow access via TRS to their services throughout the area(s) in which they offer service, the Commission is reviewing the extent to which TRS users are unable to access their chosen carrier. The Commission intends to work with TRS users, the industry, TRS centers, state commissions, and other interested parties to ensure that TRS users have equal access to their carrier of choice. We remind carriers, however, that the Commission may consider enforcement action, including forfeitures, should this obligation not be met.

For further information contact Cheryl L. Callahan at (202) 418-1806, ccallaha@fcc.gov, or Debra Sabourin at (202) 418-0976, dsabouri@fcc.gov, of the Common Carrier Bureau, Network Services Division; TTY Number: (202) 418-0484.

Attachment #2

COMMISSIONERS

GLENN F. IVEY
CHAIRMAN

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SUSANNE BROGAN
CATHERINE I. RILEY
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STATE OF MARYLAND



SUSAN S. MILLER
ACTING GENERAL COUNSEL

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September 22, 1999

Mr. Gilbert Becker
Assistant Director
Telecommunications Access of Maryland
Office of Information Technology
Maryland Department of Budget & Management
301 W. Preston Street, Room 1008
Baltimore, Maryland 21201-2305

Ms. Helene Courard
State Attorney - Government Affairs
Qwest Communications Corporation
4250 North Fairfax Drive
Arlington, Virginia 22203

Re: Telecommunications Access of Maryland Complaint

Dear Mr. Becker and Ms. Courard:

By letter dated June 23, 1999, the Maryland Department of Budget and Management, Office of Telecommunications Access of Maryland ("TAM") filed a complaint against Qwest Communications Corporation ("Qwest"). TAM alleges that Qwest, a certified interexchange carrier in Maryland, has refused to make its long distance services accessible via Maryland Relay and that this refusal is contrary to the Americans with Disabilities Act ("ADA") and Federal Communications Commission ("FCC") regulations.

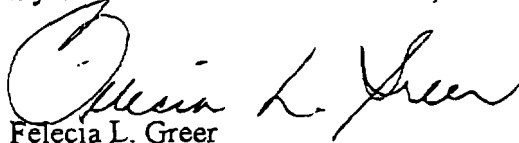
Mr. Becker and Ms. Courard
September 22, 1999
Page 2

On September 10, 1999, Qwest responded to the complaint. Qwest contends that an interexchange carrier's participation in the relay program pursuant to FCC regulations is voluntary. Qwest also noted that this matter was currently pending before the FCC.

On September 14, 1999, the FCC issued a Public Notice reminding "all common carriers of their obligation to provide access to their services via telecommunications relay service (TRS) throughout the area(s) in which they offer telecommunications services." The FCC also stated that "[t]o satisfy the ADA's mandate, the [FCC] adopted comprehensive rules delineating the TRS obligations of carriers, including a requirement that interexchange carriers (IXCs) provide equal access for TRS users 47CFR §64.604(b)(3)."

The recent Public Notice of the FCC resolves the complaint currently before this Commission. In light of the FCC's conclusion that all IXC's must provide access to TRS users, the Commission hereby directs Qwest to provide access to its services through the TRS within sixty days of the date of this directive.

By Direction of the Commission,

A handwritten signature in dark ink, appearing to read "Felecia L. Greer", is written over a horizontal line.

Felecia L. Greer
Executive Secretary

amn/becker

Attachment #3

Re: Telecommunications Relay in Maryland

To All Authorized Interexchange Carriers:

On September 14, 1999, the Federal Communications Commission ("FCC") issued a Public Notice reminding "all common carriers of their obligation to provide access to their services via telecommunications relay service (TRS) throughout the area(s) in which they offer telecommunications services." The FCC also stated that "[t]o satisfy the ADA's mandate, the [FCC] adopted comprehensive rules delineating the TRS obligations of carriers, including a requirement that inter-exchange carriers ("IXCs") provide equal access for TRS users 47 CFR § 64.604(b)(3)." Clearly, pursuant to the FCC regulations, participation in the relay program is mandatory for all authorized carriers.

According to the Maryland Department of Budget and Management, Office of Telecommunications Access of Maryland ("TAM") a significant number of IXCs still refuse to make their long distance services accessible via the Maryland Relay. In light of the FCC's conclusion that all IXCs must provide access to TRS users, the Commission hereby directs all authorized IXCs providing service in Maryland to provide access to their interexchange services through the TRS within sixty days of the date of this directive.

By Direction of the Commission,

Felecia L. Greer
Executive Secretary

FLG:sf

Draft letter to carriers.

Attachment #4

Comments from Mark Seeger to Pam Stewart regarding COC

First, the Carrier of Choice and CLEC issues are two separate issues, but they have an impact on each other. This discussion addresses the impact.

With Carrier of Choice participation, CLECs must make their long distance networks and long distance carriers available to relay users as directed by the ADA and FCC. If the CLECs carrier is not identified or if the CLEC's network is not made available, relay users can not take advantage of the calling plans, services, and rates that are available to direct dial users, placing the relay user at a disadvantage in terms of functional equivalency. CLECs (all Common Carriers engaged in interstate communication by wire or radio) are required to provide interexchange service through relay by Title IV of the ADA and as regulated by FCC 47 CFR (Federal Register/Vol. 56, No. 148), as cited in 64.604 (b)(3).

Billing and collection (B&C) agreements between the CLEC and other long distance providers, such as Sprint, play a part in access through relay. B&C agreements make it possible for long distance carriers to bill for and collect funds due for toll calls placed by end users that have not selected them as their preferred long distance carrier (no customer account established with the LD carrier).

If the CLEC does not make their long distance provider/network available through relay an alternative long distance network must be selected by the end user. Often there is no billing and collection agreement in place between the two companies which means that there is no avenue for the carrier that transports the toll portion of the call to collect the due toll from the end user.

Typically when no B&C agreement exists, the long distance carriers will restrict calls placed by the CLEC customer. That is, any call originating from the non-compliant CLEC will be required to use operator services and an alternative type of billing method (3rd Party, Collect, Calling Card). This restriction is true for calls placed from the end users home or business (using 10+XXXX) or for calls placed through relay. In relay the result is that if the CLEC does not make their network/long distance carrier available, and if the CLEC does not have a B&C agreement in place with the network supporting the relay provider, there is no way for the end user to place a Sent Paid toll call through relay.

The method used to arrange B&C agreements by most of the larger long distance carriers that must deal with a large number of small ILECs and CLECs is a clearing house arrangement. A clearing house receives many billing records from many carriers. The records are sorted by LEC and distributed by the clearing houses to each LEC for invoicing to the end user on a LD carrier page of the LEC invoice. The amount due is then collected by the LEC, a commission held back, and the remainder passed

to the LD carrier.

Clearing houses are used by the carriers to establish and maintain a direct billing record feed to small LECs that may only bill a few calls over the course of time. Two clearing houses used by major carriers are:

- NECA Independent Billing Services (NIBS)
- Illuminet

The use of a clearing house will also ensure that if the underlying relay provider were to change in a particular state, the CLEC would have a means to continue a billing relationship and provide relay access for their customers with subsequent providers of relay services without having to negotiate individual B&C agreements.

To provide Sent Paid calling from any LEC for a non-subscribed customer a B&C must be in place between the originating network (LEC) and the long distance provider. The LEC, in the case the CLECs, should be encouraged to establish B&C agreements with major carriers providing relay service through one of the established clearing houses. Many CLECs are resistant to do this because of the expenses involved in billing system development and the desire to sell their own bundled services.

Much of this information was provided through Paul Ludwick with Sprint Relay Product Development. Paul is part of the NECA advisory board and has established himself as a liaison with the FCC staff on behalf of Sprint Relay. Mike Baer continues to support these issues with Sprint Relay Program Management as individual customer contacts bubble up through agents, supervisors or account managers regarding lack of access to relay for CLEC customers.

Thanks for the opportunity to provide input into the Maryland process!

...Mark

Attachment #5

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

November 19, 1998

In the Matter of)
)
Telecommunications Relay Services)
and Speech-to-Speech Services for) CC Docket No. 98-67 -
Individuals with Hearing and Speech)
Disabilities)
)

Exparte Comments

A meeting was held on October 26, 1998 at the FCC regarding the State Relay Administrators' request for clarification and enforcement of equal access to Telecommunications Relay Services (TRS) as provided for in Title IV of the Americans with Disabilities Act (ADA) and regulated by Federal Communications Commission 47 CFR (Federal Register/Vol. 56, No 148) as cited below:

- **64.601(4) Common Carrier or Carrier:** Any common Carrier engaged in interstate communication by wire or radio as defined in section 4(h) of the Communications Act of 1934, as amended (the act), and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b) of the act.
- **64.604 (b) (3) Equal Access to interexchange carriers.** TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services, to the same extent that such access is provided to voice users.
- **Section 225(c) Telecommunications Act of 1996 Provision of Services.** "Each common carrier providing telephone voice transmission services shall, not later than 3 years after the date of enactment of this section, provide in compliance with the regulations prescribed under this section, throughout the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers..."

As stated in our previous visit to the FCC and formal comments, we feel that equal access to all carriers is of the utmost importance due to the changes brought about by the Telecommunications Act of 1996 as it relates to opening the market for IXC's, CLEC's, and resellers of telecommunications service.

As these markets expand, voice customers will have a far greater choice of carriers as time goes on. This new and growing arena of competition and choice will be blocked to the disabled consumer if it is not fully accessible via TRS.

In response to issues that arose during the October 26, 1998 meeting, an informal meeting was requested to assess the technical feasibility of TRS providers processing calls for IXC's, CLEC's, and dial-arounds. Representatives from the following TRS providers have been invited to participate. Invitees include: AT&T-Burt Bossi, Hamilton Telecommunications-Gary Warren, MCI-Bill McClellan, Southwestern Bell-Jim Gorman, and Sprint-Paul Ludwick. Gilbert Becker and Pam Stewart will represent Maryland Relay and Ron Lanier and Susan Roach will represent Virginia Relay.

We again respectfully request that the FCC review and clarify it's previous ruling and enforce the equality of access to all carriers pursuant to the ADA and FCC regulations.

We further request that the FCC issue a statement or comments regarding the issue that may be used to assist states with their enforcement of compliance. Attached are copies of boilerplate letters that can be used to enforce IXC and CLEC compliance. A public statement from the FCC emphasizing it's regulations will assist the state utilities commissions to not only enforce future compliance, but will also assist in bringing current non-complaint telecommunication's carrier into compliance.

Respectfully submitted,

Gilbert Becker, Assistant Director Md Dept. of Budget & Management
Maryland Relay

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC**

APRIL 20, 1999

In the Matter of)	
)	
)	
Telecommunications Relay Services)	CC Docket No. 98-67
And Speech-to-Speech Services)	
For Individuals with)	
Hearing and Speech Disabilities)	

**EXPARTE COMMENTS
OF THE
MARYLAND PUBLIC SERVICE COMMISSION**

Recently, State Relay Administrators requested that the Federal Communications Commission ("FCC") clarify the equal access to Telecommunications Relay Service ("TRS") regulations. The State Relay Administrators also requested that the FCC begin more actively enforcing its equal access regulations. The Maryland Public Service Commission ("MDPSC") supports this request and believes that clarification and enforcement of these regulations is in the public interest.

The Telecommunications Act of 1996's ("1996 Act") stated purpose is "to promote competition . . . in order to secure lower prices and higher quality services for American telecommunications consumers" This objective will not be achieved so long as one segment of our society, TRS users, is denied access to their carrier of choice. More specifically, Section 255(c) of the 1996 Act requires a provider of telecommunications service to ensure that the service is accessible to and usable by individuals with disabilities. Thus, every telecommunication service provider is

obligated to provide their service to TRS users regardless of whether the provider offers interexchange service, intraLATA toll service or local exchange service.

FCC regulations state that “TRS users shall have access to their chosen interexchange carrier through the TRS . . . to the same extent that such access is provided to voice users.” The FCC should clarify this regulation by specifically stating that equal access obligations apply to all carriers, not just interexchange carriers. Equal access can be accomplished through an agreement between the service provider and the TRS provider, but often the service provider refuses to enter into such an agreement. The FCC should further clarify its regulations by specifically stating that all carriers are required to enter into agreements with TRS providers as a condition of providing services in that TRS provider’s state. Finally, the FCC should specifically empower State Relay Administrators and Public Service Commissions to enforce the equal access obligation.

This issue of equal access is of vital importance to TRS users. Voice customers are expected to receive a greater choice of carriers as the telecommunications marketplace continues to open to competition. TRS users will be denied the benefits of a competitive market unless they receive equal access to the carrier of their choice. For the foregoing reasons, the Maryland Public Service Commission respectfully requests that the FCC clarify its equal access regulations and the enforcement of those regulations consistent with the above comments and the previous request of the State Relay Administrators.

CONTINUED FOR SIGNATURE:

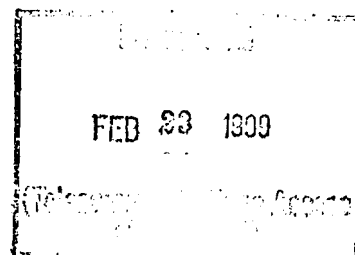
Respectfully submitted,

Susan Stevens Miller
Acting General Counsel
Maryland Public Service Commission
6 St. Paul Street
Baltimore, Maryland 21202
(410) 767-8039

amn/exparte



1850 M Street, N.W., Suite 1100
Washington, DC 20036



February 19, 1999

BY HAND

Magalie Roman Salas,
Secretary
Federal Communications Commission
445 12th Street S.W.,
Washington D.C. 20554

**Re: *Ex Parte* -- Telecommunications Relay Services and Speech-to-Speech
Services for Individuals with Hearing and Speech Disabilities, CC Docket
No. 98-67**

Dear Ms. Salas:

In an *Ex Parte* filing dated November 19, 1998, Gilbert Becker, Assistant Director, Maryland Department of Budget & Management, Maryland Relay ("Maryland Relay *Ex Parte*"), emphasized the need for the FCC to clarify that all carriers, including new entrants into the local market and their associated long distance affiliates, must offer Telecommunications Relay Services (TRS) to their customers. Sprint fully agrees. Absent such clarification, users of TRS will not be able to enjoy the benefits of local competition that may develop in the wake of the Telecommunications Act of 1996. They will not be able to choose from among the competitive local exchange carriers that may be providing service in their areas, if any, since the IXC affiliates of such carriers are highly unlikely to interconnect with the relay provider in the State.

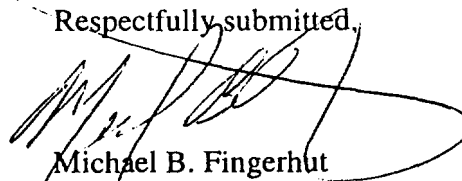
But the requested clarification will not, in and of itself, ensure that relay users will be provided the ability to select an alternative local carrier and have access to interexchange services through the relay. Despite the fact that each common carrier has been required since July 26, 1993, to provide "telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers." 47 C.F.R. §64.603, many IXCs -- even those unaffiliated with CLECs -- do not interconnect with the State's relay provider. And, because of the lack of such interconnection, a relay provider like Sprint is often unable to transfer the relay call to the caller's chosen IXC. Although in the absence of such interconnection Sprint will offer to carry the call or provide access to an alternative carrier, the end user must pay for the call by credit card or phone card and this, in turn, may require the end user to pay a higher rate than that charged by her prescribed carrier. If the customer is unable or unwilling to charge the call, she will not be able to place the interexchange call through the relay center.

Magalie Roman Salas,
February 19, 1999
Page 2

Of course, the Commission on its own initiative should institute an enforcement action against any IXC or LEC that is not in compliance with Section 64.603. But given the Commission's resource constraints, a better alternative may be to adopt measures that would assist the States in enforcing the obligation of all carriers to provide TRS service to their customers. For example, the Commission could require that in order for a State to have its intrastate TRS program certified under Section 64.605, the State include a condition in any license it grants a CLEC or IXC to provide intrastate services obligating such carrier to provide "telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers" to its customers. Each State could then ensure that such condition is met by designating an access tandem in the largest metropolitan area in the State as the point of interconnection between the relay provider and the CLECs and IXCs and by mandating that the interconnecting carriers use trunking facilities, *e.g.*, Feature Group D, with the appropriate signaling protocol that allows for the exchange of information that is necessary for accurate rating and billing of such traffic. Carriers should also be required to provide tandem routing information including carrier ID codes and routing codes.

But, regardless of whether the Commission issues a clarification as requested by the Maryland Relay *Ex Parte* or mandates interconnection guidelines for the States to enforce as recommended above, it is clear that action by the Commission is necessary to ensure that those individuals that must communicate via relay are able to realize the full benefits of competition.

Respectfully submitted,



Michael B. Fingerhut
General Attorney

c: Anna Gomez, FCC (By Hand)
Kurt Schroeder, FCC (By Hand)
Debra Sabourin, FCC (By Hand)
Gil Becker, Maryland Relay